

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RUBEN E. SANCHEZ,

Plaintiff,

v.

RUSTY SMITH, *et al.*,

Defendants.

Case No. C05-5426RJB


ORDER ADOPTING REPORT
AND RECOMMENDATION,
GRANTING DEFENDANTS
MOTIONS FOR
SUMMARY JUDGMENT AND
DISMISSING CASE

The Court, having reviewed plaintiff's complaint, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the report and recommendation, and the remaining record, does hereby find and ORDER:

- (1) In his objections, plaintiff apparently contends that defendant Dr. Hogan saw plaintiff on December 9, 2003 and diagnosed "retinal break temporal" on that day. *See* Dkt. 109, at 4. Plaintiff apparently believes that there was a delay between the time Dr. Hogan saw him on December 9, 2003, and the diagnosis of retinal detachment by Dr. Berg on January 10, 2004. The court has reviewed the record. The medical record to which plaintiff refers is included in Dkt. 87, Exh. C; and Dkt. 110, at 2. The record substantiates the declarations of the medical practitioners involved with plaintiff's case. Plaintiff saw Dr. Hogan on January 20, 2004, at 10:15 (not December 9, 2003) for postoperative followup, during which time Dr. Hogan noted "retinal break temporal;" and plaintiff was seen by Dr. Berg that same day. *Id.* Plaintiff's objections are without merit.

- 1 (2) The court notes that plaintiff's Amended Complaint alleges only 42 U.S.C. § 1983 claims.
2 *See* Amended Complaint, Dkt. 12.
- 3 (3) The Court adopts the Report and Recommendation. Defendant Hogan's Motion for
4 Summary Judgment (Dkt. 92); and the Department of Corrections defendants Smith,
5 Clinton, Brown, and Amaru's Motion for Summary Judgment (Dkt. 93) are **GRANTED**.
- 6 (4) Plaintiff's motions for summary judgment (Dkt. 77, 86, and 87) are **DENIED**.
- 7 (5) The Amended Complaint is **DISMISSED**.
- 8 (6) The Clerk is directed to send copies of this Order to plaintiff and to the Hon. J. Kelley
9 Arnold.

10 DATED this 26th day of December, 2006.

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13 Robert J. Bryan
14 United States District Judge
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